

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

CALEB BUTLER and JEREMY  
PENNINGTON,

Plaintiffs,

v.

Case No.

BNSF RAILWAY COMPANY,

1:22-cv-00367-MJT

Defendant.

VIDEOTAPED DEPOSITION OF JEREMY PENNINGTON

DATE: Tuesday, December 13, 2022

TIME: 9:08 a.m.

LOCATION: Martinez & McGuire, PLLC

17227 Mercury Drive, Suite B

Houston, TX 77058

REPORTED BY: John Shavers, Notary Public

Job No. CS5591181

<p style="text-align: right;">Page 158</p> <p>1 Q How well do you know Dentin?</p> <p>2 A I've talked to him on the phone. He said if</p> <p>3 I ever — because of the situation that I was in, in</p> <p>4 Beaumont, to call him, but I only talked to him one</p> <p>5 other time.</p> <p>6 Q Do you feel like Mr. Chapman retaliated</p> <p>7 against you?</p> <p>8 A No.</p> <p>9 Q Do you feel like Mr. Thompson retaliated</p> <p>10 against you?</p> <p>11 A No.</p> <p>12 MR. FLOYD: All right. I think this</p> <p>13 pulled up now. I want to show you — oh, gosh. Of</p> <p>14 course, this is going slow. Do you want to take a</p> <p>15 look at this before I — it's just his investigation</p> <p>16 letter from November 21.</p> <p>17 MR. MCGUIRE: That's all right.</p> <p>18 MR. FLOYD: All right.</p> <p>19 BY MR. FLOYD:</p> <p>20 Q I'm going to show you what is — it's an</p> <p>21 investigation letter from November 30, 2021, addressed</p> <p>22 to you, that says, "An investigation has been</p> <p>23 scheduled at 1100 hours" —</p> <p>24 A Oh, yes, I do recall that.</p> <p>25 Q — "for December 15th."</p>	<p style="text-align: right;">Page 160</p> <p>1 A Because I was already going to quit.</p> <p>2 Q When did you decide that you were going to</p> <p>3 quit?</p> <p>4 A The moment that Jeff gave me the cold</p> <p>5 shoulder at the crew office because I wanted to go</p> <p>6 back to working. I felt like I did nothing wrong at</p> <p>7 the time, all the way up, and I felt like I was still</p> <p>8 going to be retaliated against, against him, because</p> <p>9 he had made a statement that I'm never talking to that</p> <p>10 guy again. And Dentin told him, "Yes, you are because</p> <p>11 that's your job." And then when I was cold-shouldered</p> <p>12 at the crew office, I felt like I couldn't go back to</p> <p>13 work, in a normal situation, a normal setting, because</p> <p>14 I had been harassed by this guy.</p> <p>15 I had been threatened by this guy, and I had</p> <p>16 been lied to. And now, he's doing exactly what he</p> <p>17 said he was going to do to this other guy, to me. I</p> <p>18 was already getting — working on getting my teaching</p> <p>19 certification. I had already gotten hired at Beaumont</p> <p>20 United. I didn't want to go work there. So, I waited</p> <p>21 until the end of the year, when I found a job that I</p> <p>22 could at least feel more comfortable with.</p> <p>23 Q All right. So, I think the timeline on this</p> <p>24 is important. So, the cold shoulder situation that</p> <p>25 you just described happened, you said, about a month</p>
<p style="text-align: right;">Page 159</p> <p>1 A You're right. I did get an investigation</p> <p>2 letter, and then when I took responsibility for it,</p> <p>3 and they gave me --</p> <p>4 Q Okay. I just wanted to clear that up. I</p> <p>5 just wanted to clear — all right. So, after this</p> <p>6 incident, you did get another investigation letter and</p> <p>7 another investigation hearing was scheduled with BNSF,</p> <p>8 right?</p> <p>9 A Yeah.</p> <p>10 Q Did you have —</p> <p>11 A My union reps told me, "Don't worry about</p> <p>12 it." They're going to — why don't you take the admit</p> <p>13 you were at fault, and it'll go away.</p> <p>14 Q So, you didn't have similar concerns about</p> <p>15 the second investigation that you did the first one</p> <p>16 because your union?</p> <p>17 A I just — I already knew what I was going</p> <p>18 into at that point. I was already out the door, to be</p> <p>19 honest with you, man.</p> <p>20 Q Okay.</p> <p>21 A I was just trying to get to the first of the</p> <p>22 year.</p> <p>23 Q Why is that?</p> <p>24 A I didn't — huh? Why?</p> <p>25 Q Yeah.</p>	<p style="text-align: right;">Page 161</p> <p>1 after the investigation. So, that would've been</p> <p>2 sometime in mid-November, roughly?</p> <p>3 A Probably.</p> <p>4 Q And that was —</p> <p>5 A I said about a month.</p> <p>6 Q Sure, sure. And I get it. It doesn't —</p> <p>7 A It was prior to me putting the car in the</p> <p>8 ground.</p> <p>9 Q But it was somewhere in there, in November,</p> <p>10 that that was when you said, "All right. I'm leaving.</p> <p>11 I'm done." All right.</p> <p>12 A I was already pretty much at that</p> <p>13 conclusion, prior to that, because of the stress. But</p> <p>14 when that happened, it was like that was the final</p> <p>15 straw.</p> <p>16 Q All right.</p> <p>17 A Because I feel like I couldn't go back to</p> <p>18 work without — what's going to happen next time I get</p> <p>19 in trouble. They tried to — they told me they were</p> <p>20 going to fire me over something I didn't do. I was</p> <p>21 doing my job. And so, what happens when I really —</p> <p>22 something does happen?</p> <p>23 Q All right.</p> <p>24 A Then it did happen.</p> <p>25 Q Let's — I'll give everybody a copy. This</p>

41 (Pages 158 - 161)

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1 tie brakes.

2 Q Okay. Do you happen to have a copy of any

3 of the exhibits or anything like that, that was

4 presented at the investigation hearing?

5 A No, I forwarded everything I have to my

6 lawyers.

7 Q Okay. Do you know if by chance maybe your

8 union rep or one of the other guys' union reps was

9 recording the investigation?

10 A No.

11 Q No? All right. I think that's all the

12 questions I've got for you, Mr. Pennington. So, it's

13 been a long day, but I think I'm done. I'll pass the

14 witness.

15 MR. MCGUIRE: We'll reserve ours for

16 the time of trial. He will read and sign. And I'll

17 order a copy of the transcript. Steve doesn't need

18 one.

19 MR. FLOYD: I'll take a copy of the

20 transcript and a copy of the video.

21 VIDEOGRAPHER: Okay. That's it. Okay.

22 Can I go – this will conclude the deposition for Mr.

23 Pennington. We are off the video record at 12:44 p.m.

24 (Whereupon, at 12:44 p.m., the

25 proceeding was concluded.)

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1 CERTIFICATE OF NOTARY PUBLIC

2 I, JOHN SHAVERS, the officer before whom the

3 foregoing proceedings were taken, do hereby certify

4 that any witness(es) in the foregoing proceedings,

5 prior to testifying, were duly sworn; that the

6 proceedings were recorded by me and thereafter reduced

7 to typewriting by a qualified transcriptionist; that

8 said digital audio recording of said proceedings are a

9 true and accurate record to the best of my knowledge,

10 skills, and ability; that I am neither counsel for,

11 related to, nor employed by any of the parties to the

12 action in which this was taken; and, further, that I

13 am not a relative or employee of any counsel or


14 attorney employed by the parties hereto, nor

15 financially or otherwise interested in the outcome of

16 this action.

17

18

19 

20 JOHN SHAVERS

21 Notary Public in and for the

22 STATE OF TEXAS

23 [X] Review of the transcript was requested.

24

25

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1 CERTIFICATE OF TRANSCRIBER

2 I, SONYA LEDANSKI HYDE, do hereby certify

3 that this transcript was prepared from the digital

4 audio recording of the foregoing proceeding, that said

5 transcript is a true and accurate record of the

6 proceedings to the best of my knowledge, skills, and

7 ability; that I am neither counsel for, related to,

8 nor employed by any of the parties to the action in


9 which this was taken; and, further, that I am not a

10 relative or employee of any counsel or attorney

11 employed by the parties hereto, nor financially or

12 otherwise interested in the outcome of this action.

13

14 

15 SONYA LEDANSKI HYDE

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1 Clint E. McGuire, Esquire

2 clint@mmtriallawyers.com

3 December 29th, 2022

4 RE: Butler, Caleb, Et Al. v. BNSF Railway Company

5 12/14/2022, Jeremy Pennington (#5591181)

6 The above-referenced transcript is available for

7 review.

8 Within the applicable timeframe, the witness should

9 read the testimony to verify its accuracy. If there are

10 any changes, the witness should note those with the

11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of

13 Deponent and Errata and return to the deposing attorney.

14 Copies should be sent to all counsel, and to Veritext at

15 (erratas-cs@veritext.com).

16

17 Return completed errata within 30 days from

18 receipt of testimony.

19 If the witness fails to do so within the time

20 allotted, the transcript may be used as if signed.

21

22 Yours,

23 Veritext Legal Solutions

24

25